

REMARKS

Claims 1 to 39 were pending. Claims 1 to 39 have been canceled and claims 40 to 51 have been added. Claim 40 corresponds to claim 1; claims 41 to 49 depend from claim 1 and recite compounds; claim 50 depends from claim 40 and recites a composition comprising a therapeutically effective amount of a compound of claim 40; claim 51 depends from claim 40 and recites a method of preparing a pharmaceutical composition comprising a therapeutically effective amount of a compound of claim 40. Claims 50 and 51 correspond to claims 37 and 38.

The Examiner indicated that the foreign priority documents have not been received. This application is the national stage of a PCT application, and the foreign priority papers should have been forwarded to the USPTO. Nevertheless, Applicants will obtain and submit certified copies of the priority documents.

The Examiner indicated that the examined subject matter includes compounds in which W is N-1,3,5-triazinyl; G1/G2/G3 are as defined provided that the sum of  $x + y + z$  is at least 2 and at most 4; R1/R2/R3 are a,b,c,d,e,f,g,h; and R4/R5 are a. Applicants believe that the Examiner intended to include b(i) in the definition of R4/R5 so R4/R5 can be a or b(i). This interpretation is consistent with the restriction requirement in the July 23, 2004 Office Action and the elected species is not encompassed by the claim if R4/R5 are only a (i.e., hydrogen only).

In addition, the definition of W in claim 40 is the same as b in original claim 1. This appears to be consistent with the restriction requirement in the July 23, 2004 Office Action, and Applicants respectfully request that the Examiner consider the other possibilities for W that are recited in claim 40. Dependent claim 41 recites that W is N-1,3,5-triazinyl, with optional substituents.

The Examiner rejected claims 37 and 38 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly

claim the subject matter which Applicants regard as the invention. The Examiner stated the claims were drawn to pharmaceutical compositions without a dosage limitation and recommended that the term “therapeutically effective amount” be incorporated into the claims.

Applicants respectfully traverse this rejection of the claims. Although Applicants disagree with the Examiner, the claims have been amended to recite “therapeutically effective amount”. New claims 50 and 51 recite this language. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection of the claims.

The Examiner rejected claim 38 under 35 U.S.C. § 101 as directed to non-statutory subject matter. The Examiner states that claims directed to use have been held to be non-statutory.

Claim 38 has been canceled and the new claims are not use claims. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection of claim 38.

Applicants thank the Examiner for the indication of allowable subject matter at the bottom of page three of the January 12, 2005 Office Action. The claims have been amended to conform to the indication of allowable subject matter, as described above.

In view of the above amendments and remarks, Applicants respectfully request that the Examiner withdraw the rejections of the claims.

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Amendment and Response  
Applicants: Ulrich Jordis et al.  
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an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our deposit account.

Respectfully submitted,

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